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Before the
Federal Communications Commission
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of	)	
	)	
Biennial Regulatory Review – Amendment of	)	
Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90,	)	WT Docket No. 98-20
95, 97, and 101 of the Commission's Rules	)	
to Facilitate the Development and Use of the	)	
Universal Licensing System in the Wireless	)	
Telecommunications Services	)	

COMMENTS OF

NATIONAL SPECTRUM MANAGERS ASSOCIATION

ON THE

NOTICE OF PROPOSED RULEMAKING

The National Spectrum Managers Association (NSMA or Association) respectfully submits the following Comments in the above-captioned proceeding.

The NSMA, established in 1984, is a voluntary association of individuals involved in the frequency coordination of terrestrial microwave, PCS and satellite earth stations. The role of the Association is to supplement the Commission's coordination rules with procedural and technical recommendations developed in an open industry forum of coordinators, licensees and manufacturers. The NSMA's objective is to make the frequency coordination process more efficient and effective.

The NSMA applauds the Commission's effort in proposing to facilitate the development and use of the Universal Licensing System (ULS) in the Wireless Telecommunications Services. The proposed changes are a major step in establishing a more effective, efficient and accessible licensing process. However, NSMA has some concerns relating to proposed restrictions on the ability to manually file applications. In addition, NSMA is concerned that elimination of Public Notices will interrupt the critical flow of information to operators, frequency coordinators and license database managers. The NSMA also suggests rule changes and requests modifications to various proposed forms.

Ability to File Manually

One of NSMA's major concerns is the Commission's effort to make use of the Universal Licensing System mandatory for all applicants and licensees. The NSMA believes that the convenience and flexibility offered by the ULS will provide a strong incentive for applicants to take advantage of this system for nearly all filings. However, while we appreciate the desire of the Commission to have virtually all applications and pleadings filed through the ULS, and thereby improve the accuracy and completeness of its database, there still must be a method by which filings can be accomplished manually. Events such as computer failure, not having access to a computer or being at a remote location when a filing must be made will require a manual submission. For example, one of our members was at an NSMA Conference in Atlanta and had to file an application for a newly constructed microwave station. Since the construction period was about to expire and the application had to be filed promptly, mailing from Atlanta instead of from the applicant's office was required.

In addition, electronic preparation of ULS exhibits will require a much greater level of computer skill and knowledge, and more sophisticated equipment, than would be required to just "fill in the blanks" on a form. Should difficulties be encountered, availability of an expeditious manual backup procedure is essential.

The Commission's suggestion that applicants who are unable to file electronically via the ULS may ask for a waiver of these requirements is unsatisfactory. Manual applications should be permitted by the rules without a preceding waiver requirement, particularly since a potential licensee would be greatly disadvantaged if its waiver request is not approved. In addition, the waiver process would cause additional inconvenience for both the Commission and the applicant.

There are many proposed references to the method of filing contained in the NPRM, only some of them state that both manual and electronic means are acceptable. The Association recommends that all instances should be changed to allow for either method. NSMA believes that the public will realize the advantages of the Universal Licensing System and will prefer its use to manual filing. While the Commission has recently indicated that separate fees for manual vs. electronic filings would not be appropriate, perhaps that position could be reconsidered to provide an additional incentive for electronic filing and, at the same time, provide funding to support retention of a back-up manual process. It seems much more appropriate to retain availability of the manual process, even at additional cost to the user, than to eliminate it altogether.

Elimination of Public Notices

The NSMA opposes the proposed elimination of Public Notices for Private Operational Fixed Service (POFS) microwave applications filed under Part 101 of the rules. While Congress granted the Commission the ability to eliminate Private Microwave Public Notices, it did not mandate their elimination. Presently, the Commission does issue Public Notices for both Common Carrier and Private Microwave applications. This important function should be continued and proposed Section 1.933(d)(1) should be eliminated. The appearance of a Public Notice disseminates essential information and allows applicants to identify other nearly concurrent filings which could potentially produce interference and would otherwise go undiscovered prior to implementation. The subsequent 30-day waiting period prior to authorization approval provides an opportunity for parties to resolve differences and, if necessary, intervene in the licensing process.

The Public Notice provides important information to the coordinating community. Many prior coordination notices (PCNs), issued to obtain concurrence with interference calculations from other operators and to reserve frequency assignments for proposed microwave routes, ultimately are not followed up with applications filed with the Commission. Without the Public Notice process, it would not be possible to determine that these proposals had been abandoned and to purge the related coordination information from a frequency coordinator's database. This would result in indefinite protection of unused frequency assignments, thereby substantially reducing the efficiency of spectrum use. The Public Notice process also allows the public to compare data filed with the Commission with information that was previously coordinated. Industry experience

indicates that in about 20% of filings, coordinators find discrepancies between the coordinated data and that which was filed with the Commission. Fortunately for the Commission and the industry, over 99% of these discrepancies are resolved without FCC intervention. This Public Notice period can also be used to evaluate the accuracy of information provided in the PCN, such as coordinates and ground elevation. In addition, there are instances where certain information, such as street address, is available only on the application, but was not included in the prior coordination notice; appearance of the Public Notice serves as an indication that an application has been filed and is therefore available for study.

The 30-day waiting period, after appearance of the Public Notice and before an authorization is approved, is essential to allow coordinators, incumbents and applicants an opportunity to compare the coordinated data with the filed data and conduct informal discussions to resolve any discrepancies between the two. Should resolution not be possible, or if coordination has not been successfully completed, this interval affords an opportunity for coordinators and licensees to notify the Commission and halt the grant of a potentially erroneous license.

In addition, since spectrum available for fixed use is shared on a co-primary basis between Private and Common Carrier Microwave licensees, the frequency coordination, Public Notice, and filing requirements should be the same.

Proposed Forms

There are many instances throughout the proposed forms where latitude and longitude are requested. Directions for the forms must clearly indicate that while the coordinates may be shown to the nearest tenth of a second, they are required to be expressed only to the nearest second (note that FAA Rules require coordinates be specified to the nearest second). Other than for short path computations where lack of precise coordinate information will result in calculation of azimuths in error by more than one degree, accuracy to the nearest second is adequate for interference analysis. To force all applicants and licensees to provide all coordinates to the nearest tenth of a second would add a significant burden and survey expense without any meaningful benefit.

In a similar manner, the Commission is requesting ground elevations and various building and antenna heights to be expressed to the nearest one-tenth of a meter. Presently, the data is required to the nearest foot. While there is some concern about the "necessity" of having to convert all dimensions to metric units, the change in the required accuracy from 1 foot, or 12 inches, to only 3.94 inches (1/10 of a meter) is inappropriate and unnecessary. This degree of accuracy would require expensive surveys without yielding any meaningful benefit for the investment. Even one-foot accuracy is probably more information than is actually required from a coordinating or regulatory standpoint. The one-foot accuracy requirement (or nearest 3/10 of a meter) should be maintained although accuracy to the nearest meter would probably be sufficient.

FCC Form 601

It is not clear whether Items 10, 11, and 12 of Schedule I of FCC Form 601 apply only to Broadcast Auxiliary users or to all filers. This should be clarified. With respect to coordinations completed under Part 101 of the Rules, the NSMA proposes wording for this question be changed to the following:

(a) Is frequency coordination required for this application? Y/N

(b) If no, provide reasons.

(c) If yes, has frequency coordination been completed satisfactorily? Y/N

(d) If no, explain and justify unresolved issues.

(e) Provide the date of the last frequency coordination notification.

The information as noted above will allow both the Commission and the industry to evaluate and ensure compliance with frequency coordination requirements. Proposed Subparts (a) and (b), as shown above, would require an applicant to either conduct frequency coordination or provide a satisfactory explanation as to why it was unnecessary. Proposed Subparts (c) and (d), above, would require the applicant to make a positive statement that coordination was completed satisfactorily, but also would allow an applicant to file in those cases where it was not possible to resolve outstanding objections. Proposed Subpart (e) would provide a reference for coordinators to utilize to compare the data.

Microwave frequency coordinators do not employ a system of numbering prior coordination notices and therefore should not be required to report them on license applications.

FCC Form 601, Schedule I, Supplement 2 should be modified to show polarization as a separate column and entry immediately following frequency. If shown on Supplement 3 at Item 15, as proposed, it would require separate supplements for each polarization. Industry standards show polarization as a part of the frequency designation (e.g., 10715V) rather than associating it with the antenna. In addition, many systems operate with both horizontal and vertical polarization; associating polarization with the frequency rather than the antenna would accommodate this and increase clarity.

Rule Changes

The definitions contained in Proposed §1.907 for Coordination Area, Coordination Contour, and Coordination Distance should be clarified. It appears that actual interference must be experienced before one station would be in the coordination contour of another station. This does not match the method traditionally employed by the microwave industry where coordination is done over a much larger area, keyed to the azimuth of the antenna bore sight, and designed to encompass authorized and previously proposed stations potentially affected by a new proposed installation. Presently, most coordinators use a coordination contour (for paths using frequencies up to 15 GHz) of 125 miles, with a greater distance within five degrees of bore sight. The proposed definitions appear to be at variance with industry policy and could result in interference due to use of a smaller study area.

Paragraph 50 of the NPRM relates to amending §101.103 relating to frequency coordination. No specifics as to the wording of the proposed change are provided in the

NPRM. The phrase "entity(ies) with which it normally engages in frequency coordination" is not clear. New coordination notices should be sent to all parties with which coordination was originally conducted, rather than just sending it to the coordinator that performed the original coordination. This would allow all parties to update their databases and evaluate the interference exposure whenever any changes are made -- either major or minor. It is important that all changes be communicated to the coordination community to ensure that necessary interference evaluations can be made. While changes up to five seconds of latitude and longitude may be considered minor, they still can result in a significant change in interference exposure. This is particularly true in the case of short paths, where dramatic changes in main beam azimuth, and the attendant interference environment, can result from small changes in station location.

Paragraphs 76-79 of the NPRM relate to collection of licensing and technical data. For PCS licensees, required technical data should be no greater than presently specified under Part 24 licensing rules. However, the FCC should incorporate a requirement for PCS operators using the same frequency block in adjacent markets, or different frequency blocks within the same market, to coordinate frequency use based upon industry guidelines such as those issued by the National Spectrum Managers Association. Doing so will reduce the number of FCC filings while requiring the exchange of information between PCS operators as needed for proper frequency coordination.

Paragraph 84 of the NPRM proposes to eliminate four categories of technical information from the Point-to-Point Microwave applications, namely, type acceptance number, line loss, channel capacity, and base band signal type. To the extent that this information would be

required to evaluate the interference environment, it should be retained. Furthermore, eliminating these categories of technical information would allow licensees to make changes without coordinating the changes or filing an application with the Commission. In addition, it would be particularly useful to the conduct of accurate interference studies to include a requirement to provide the received signal level (RSL) on these applications.

Privacy Issues

The requirement to provide a Taxpayer Identification Number ("TIN") and / or Social Security Number ("SSN") raises serious privacy issues. The Commission states that this information will not be provided to the public. The NSMA believes the Commission should take care to ensure this information receives appropriate protection. This has not always been the case, for example, one of our members received copies of another party's earth station applications earlier this year which included the TIN on the form. Furthermore, to require the payer to provide their own personal Social Security Number in addition to the applicant's TIN seems unnecessary. While the TIN/SSN provides a convenient number for use in uniquely identifying individuals and organizations, it does expose the individual to the potential of fraud as a result of the disclosure of this information. With respect to FCC applications, applicants would be required to provide this information not only to the Commission, who may be in a position to exercise proper control over its availability, but would also be required to provide it to outside entities such as frequency coordinators and test examiners. Therefore, control over access to this information may be expected to be considerably less restrictive than the Commission would exercise.

To the extent that this information is required for compliance with the Debt Collection Improvement Act of 1996, it would only apply to those applications that required a filing fee and only in those cases where a fee refund was made. Since the number of fee refunds is an extremely small percentage of the total applications that are filed with the Commission, the request for the TIN/SSN should only be required in those instances where a fee refund is due. In addition, a TIN/SSN may not be available to all Commission applicants, such as foreign nationals.

Other Issues

a) Presently there is an attachment (FCC Form 415-T) to FCC Form 415 (Application for Point-to-Point Microwave stations), which lists all the requirements that an applicant must certify to, before operating under a conditional grant prior to receipt of Commission authorization. A similar attachment should be added to the new form. This is needed to ensure that all of the special conditions, particularly with respect to frequency coordination, have been met.

b) Proposed Section 1.929(c)(3) does not allow for any change in coordinates to be considered as a minor change for mobile operation, while proposed Section 1.929(d)(1) allows microwave stations to change latitude and/or longitude by up to five seconds and still be considered minor. The same five second change should apply to all applicants.

c) A gap in the frequency coordination activity could result when an antenna registration application filed by the owner of the antenna tower automatically changes the ground elevation and/or coordinates of a registered antenna structure and the Commission automatically changes the data for all registered users on that tower. There must be a mechanism in place to ensure that any change will be evaluated and frequency coordinator databases properly updated.

d) The forms should make it clear that no fee is required for those administrative applications that presently require no fee, such as deletions and address changes.

e) Page 5 of the instructions for FCC Form 601 must be clarified to show that frequency coordination relates to mobile operation only. For Common Carrier or Private Operational Fixed Service microwave applications, frequency coordination may be required, but it may be conducted by anyone meeting the requirements of the rules. A "Certified" frequency coordinator does not exist.

f) The addition of post-consummation notifications for transfers under Parts 90 and 101 should be maintained. This will allow the industry to maintain accurate databases.

g) Certification #3 on FCC Forms 601 (Main form - Page 3), FCC Form 603, and FCC Form 604 may confuse applicants in other than Part 20 filings. The NSMA suggests that it should start by saying, "For Part 20 applicants only, ..."

h) Proposed Section 1.951 seems to require all correspondence to the Commission to be done electronically. As previously noted, the ability to reply manually must be maintained. In any case, the requirement to also file FCC Form 601, along with the response, should not be required.

i) The reference to the World Wide Web site for converting coordinates from NAD27 to NAD83 on FCC Form 601 Schedule I Page 10 Instructions should be changed to show the absolute Uniform Resource Locator (URL). It should also be recognized by the Commission that an interval for database conversion should be provided; the NSMA believes 60 days will generally be adequate for the update process.

j) The ability to reinstate an expired license within a short period after license expiration should be maintained. This would greatly reduce the effort by the Commission and by applicants that would result from an inadvertent failure to renew a license in a timely manner.

k) The use of e-mail notifications as the only method of notification from the Commission should be changed to require that a written copy also be sent via US Mail. There are many instances beyond the control of the licensee where electronic messages may be lost.

l) Many instances are provided for an applicant to show a post office box address and/or a street address. It could be confusing if the post office box and street address either have

different ZIP Codes or are located in different delivery areas since there is only one opportunity to provide a post office designation.

m) The instructions for Item 12 on Page 8 of the Instructions for FCC Form 601 seem to apply to very few applicants and would be rather confusing to most of the applicants filing the form.

n) The instructions for Items 22 and 23 of FCC Form 601, Schedule I, Supplement 1, should be corrected to show the proper references.

o) The instructions and entry for Item 1 of Schedule I of FCC Form 601 are not clear as to what is meant by a "system."

p) The NSMA fully supports the Commission's efforts in the NPRM to streamline the application and licensing process in the Wireless Telecommunications Services, specifically under the WTB. We understand that there are ongoing, but separate, efforts in other service bureaus of the FCC to develop a similar automated licensing process. The NSMA believes these disparate efforts should be consolidated and eventually integrated into one application and licensing process.

Conclusion

The NSMA is interested in procedures which promote in an expedient, but effective manner, the exchange of information required for the adequate design and subsequent implementation of communications systems. The NSMA believes these comments will serve that goal.

Respectfully submitted,

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